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| EXAMINER | |
|---|---|
| NAQI, SHARICK | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/528,365 | TARASSENKO ET AL. | |
| | Examiner | Art Unit | |
| | Sharick Naqi | 3736 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *26 March 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-11, 13-30 and 36-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11,13-30 and 36-37* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

The Examiner acknowledges the amendment filed on March 25, 2008.

### *Claim Objections*

Claims 8 and 9 are objected to because of the following informalities:

In regards to claim 8, the term "pda" in line 2 is a typographical error. Examiner suggests that it be corrected to "PDA".

In regards to claim 9, the term "pda" in line 2 is a typographical error. Examiner suggests that it be corrected to "PDA".

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-6, 8-11, 13, 15, 18-24, 28-30 and 36-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulze et al. US Patent Publication No. 2002/0019584 (hereinafter Schulze).**

Claim 1. A telemedicine system comprising a patient-based physiological data acquisition and transmittal device connectable via a wireless network to transmit

physiological data to a remote server, wherein the patient-based data acquisition and transmittal device comprises:

an electronic physiological data acquisition unit for measuring a physiological parameter of a patient to acquire and output data representing the parameter (*Schulze fig. 2, paragraphs 0025-0027. Various sensors measuring physiological data*);

a wireless transmitter which upon receiving the output data from the data acquisition unit automatically transmits the output data via the wireless network to the remote server (*Schulze fig. 2, paragraphs 0027, 0054 and 0072. Biosensor information wirelessly sent via internet to the Host, a server*); and

a display for displaying to the patient the data and a message related to the patient's condition (*Schulze figs. 4-6 LCD display 100, paragraphs 0145, 0147 and 0153*),

wherein the system analyzes the output data automatically with reference to known trends for the patient, the analyzing being tuned to the patient's characteristics, and, in response, automatically generates and displays on said display said message related to the patient's condition, (*Schulze paragraphs 0033, 0062, 0115, 0125 and 0145. Trends detected by analyzing the patient's archived data and caregiver's knowledge of the patient (known trends) are used to set different alarm limits for each patient. Messages are provided to the patient whenever the alarm characteristics are fulfilled, including a message about pending alarms on the LCD display*) and

wherein the system further sends information from the server to the patient-based physiological data acquisition and transmittal device for display thereon to initiate

interaction with the patient, the information comprising one or more questions for the patient to answer (*Schulze figs. 4 and 6, paragraphs 0119, 0147 and 0152-0153. In paragraph 0153 Schulze states that caregivers can ask a custom question over the internet for the user to answer. Figs 4 and 6 show that the question is presented on the LCD screen. Paragraphs 0119 and 0147 state that flow of information between the caregiver and the patent device is via the host, thus the question is information sent from the server to the patient device for display to initiate interaction with the patient*).

Claim 2. A telemedicine system according to claim 1 wherein the wireless transmitter is adapted to receive automatically the output data from the physiological data acquisition unit on data acquisition thereby, and thereupon automatically to transmit the output data immediately in real time to the remote server (*Schulze paragraph 0103*).

Claim 3. A telemedicine system according to claim 1 wherein the wireless transmitter is adapted to establish a connection to the wireless network automatically when it is switched on and to maintain the connection while switched on (*Schulze paragraph 0054)*.

Claim 4. A telemedicine system according to claim 1 wherein the wireless network is a packet-switched network (*Schulze paragraph 0176*).

Claim 5. A telemedicine system according to claim 4 wherein the wireless network is a public network (*Schulze paragraph 0176)*.

Claim 6. A telemedicine system according to claim 5 wherein the wireless network is a General Packet Radio Service (GPRS) network (*Schulze paragraph 0176)*.

Claim 8. A telemedicine system according to claim 1 wherein the wireless transmitter is one of a cellular telephone and a PDA (*Schulze paragraph 0054)*.

Claim 9. A telemedicine system according to claim 8 wherein a software application is provided on the one of a cellular telephone and a PDA to interface with the physiological data acquisition unit and to control data transmission to the remote server (*Schulze paragraph 0054)*.

Claim 10. A telemedicine system according to claim 1 wherein the patient-based data acquisition and transmittal device is adapted to check the acquired data for compliance with preset conditions (*Schulze paragraph 0064)*.

Claim 11. A telemedicine system according to claim 10 wherein the preset conditions relate to the quality or completeness of the data or the condition of the patient (*Schulze paragraph 0064)*.

Claim 13. A telemedicine system according to claim 1 wherein the patient-based data acquisition and transmittal device stores the data if a network connection is unavailable and automatically retransmits it later when a network connection is available (*Schulze paragraph 0071)*.

Claim 15. A telemedicine system according to claim 1 wherein the remote server formats the data for delivery and display to a clinician (*Schulze paragraph 0147)*.

Claim 18. A telemedicine system according to claim 1 wherein the physiological data acquisition unit is one of: an electronic flow meter for recording Peak Expiratory Flowrate, an electronic blood glucose meter, a blood pressure monitor, and a heart rate monitor (*Schulze paragraphs 0035-0040)*.

Claim 19. A telemedicine system according to claim 1 wherein the physiological data acquisition unit and wireless transmitter are integrated as a single device (*Schulze fig. 2*)

Claim 20. A telemedicine system according to claim 1 wherein the data sent from the wireless transmitter is time stamped with reference to a secure clock (*Schulze paragraph 0105*).

Claim 21. A telemedicine system according to claim 20 wherein the secure clock is provided in the patient-based physiological data acquisition and transmittal device (*Schulze paragraph 0105*)

Claim 22. A telemedicine system according to claim 1 wherein a secure data store is provided in the patient-based physiological data acquisition and transmittal device (*Schulze paragraph 0107)*.

Claim 23. A telemedicine system according to claim 1 wherein the data sent from the wireless transmitter is digitally signed (*Schulze paragraph 0068)*.

Claim 24. A telemedicine system according to claim 1 wherein the data sent from the wireless transmitter comprises the location of the wireless transmitter (*Schulze paragraph 0157. GPS)*.

Claim 28. A telemedicine system according to claim 1 wherein the electronic physiological data acquisition unit is connectable to the wireless transmitter by a connection comprising a data head including an interface (*Schulze fig. 2)*.

Claim 29. A telemedicine system according to claim 28 wherein the data head comprises a secure clock for time stamping the data (*Schulze paragraph fig. 2, paragraphs 0105)*.

Claim 30. A telemedicine system according to claim 28 wherein the data head comprises a secure memory for storing the data (*Schulze paragraphs 0105-0107).*

Claim 36. A telemedicine method comprising:

measuring a physiological parameter of a patient using a patient-based device to acquire and output data representing the parameter (*Schulze fig. 2, paragraphs 0025-0027. Various sensors measuring physiological data)*;

automatically wirelessly transmitting the output data via a wireless network to a remote server (*Schulze fig. 2, paragraphs 0027, 0054 and 0072. Biosensor information wirelessly sent via internet to the Host, a server*);

receiving from the remote server a message related to the patient's condition obtained by an automatic, patient-tuned analysis of the data with reference to known trends for the patient (*Schulze figs. 4 and 6, paragraphs 0033, 0062, 0119, 0125, 0145, 0147 and 0152-0153. Trends detected by analyzing the patient's archived data and caregiver's knowledge of the patient (known trends) are used to set different alarm limits for each patient (patient tuned). Tripping the alarm is equivalent to obtaining the patient's condition. Paragraph 0147 states that alarm information is sent to the caregiver from the patient device and the caregiver can transmit communication to the device to disarm or reset alarms as necessary. In paragraph 0153 Schulze states that caregivers can ask a custom question over the internet for the user to answer. Paragraphs 0119 and 0147 state that flow of information between the caregiver and the patent device is*

*via the host. Thus the alarm OFF/reset message and the question are received from the server)*;

displaying via a display of the patient-based device the message related to the patient's condition (*Schulze figs. 4-6 LCD display 100, paragraphs 0145, 0147 and 0153. Display shows Alarm status and questions presented to the user*); and

initiating interaction with the patient according to information received from the server based on the analysis, the interacting comprising displaying one or more questions (*Schulze figs. 4 and 6, paragraphs 0119, 0147 and 0152-0153. Paragraph 0147 states that alarm information is sent to the caregiver from the patient device and the caregiver can transmit communication to the device to disarm or reset alarms as necessary. In paragraph 0153 Schulze states that caregivers can ask a custom question over the internet for the user to answer. Figs 4 and 6 show that the question is displayed on the LCD screen. Paragraphs 0119 and 0147 state that flow of information between the caregiver and the patent device is via the host, thus the question is sent from the server to the patient device for display, initiating interaction with the patient*).

Claim 37. A patient-based physiological data acquisition and transmittal device connectable via a wireless network to transmit physiological data to a remote server, the patient-based data acquisition and transmittal device comprising:

an electronic physiological data acquisition unit for measuring a physiological parameter of a patient to acquire and output data representing the parameter (*Schulze fig. 2, paragraphs 0025-0027. Various sensors measuring physiological data)*;

communication circuitry which, upon receiving the output data from the data acquisition unit, automatically transmits the output data via the wireless network to the remote server (*Schulze fig. 2, paragraphs 0027, 0054 and 0072. Biosensor information wirelessly sent via internet to the Host, a server*) and which receives from the remote server a message related to the patient's condition obtained by an automatic, patient-tuned analysis of the output data with reference to known trends for the patient (*Schulze figs. 4 and 6, paragraphs 0033, 0062, 0119, 0125, 0145, 0147 and 0152-0153. Trends detected by analyzing the patient's archived data and caregiver's knowledge of the patient (known trends) are used to set different alarm limits for each patient (patient tuned). Tripping the alarm is equivalent to obtaining the patient's condition. Paragraph 0147 states that alarm information is sent to the caregiver from the patient device and the caregiver can transmit communication to the device to disarm or reset alarms as necessary. In paragraph 0153 Schulze states that caregivers can ask a custom question over the internet for the user to answer. Paragraphs 0119 and 0147 state that flow of information between the caregiver and the patent device is via the host. Thus the alarm OFF/reset message and the question are received from the server)*; and

a display for displaying to the patient the data and a message related to the patient's condition (*Schulze figs. 4-6 LCD display 100, paragraphs 0145, 0147 and 0153. Display shows Alarm status and questions presented to the user*),

wherein the device initiates interaction with the patient according to information received from the remote server based on the analysis, the interaction comprising a display of one or more questions (*Schulze figs. 4 and 6, paragraphs 0119, 0147 and*

*0152-0153. Paragraph 0147 states that alarm information is sent to the caregiver from the patient device and the caregiver can transmit communication to the device to disarm or reset alarms as necessary. In paragraph 0153 Schulze states that caregivers can ask a custom question over the internet for the user to answer. Figs 4 and 6 show that the question is displayed on the LCD screen. Paragraphs 0119 and 0147 state that flow of information between the caregiver and the patent device is via the host, thus the question is sent from the server to the patient device for display, initiating interaction with the patient*).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 1-5, 8-11, 13-16, 18-30 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. US Patent Number 6,302,844 (hereinafter Walker) in view of Schulze.**

In regards to claim 1, Walker discloses a telemedicine system comprising a patient-based physiological data acquisition and transmittal device connectable via a wireless network to transmit physiological data to a remote server, wherein the patient-based data acquisition and transmittal device comprises:

an electronic physiological data acquisition unit for measuring a physiological parameter of a patient to acquire and output data representing the parameter (*Walker fig 1, column 4, lines 49-68*);

a wireless transmitter which upon receiving the output data from the data acquisition unit automatically transmits the output data via the wireless network to the remote server *(Walker column 3, lines 58-62, column 5, lines 1-7, column 7, lines 45-63. Data link)*; and

wherein the system analyzes the output data automatically with reference to known trends for the patient, the analyzing being tuned to the patient's characteristics, and, in response, automatically generates said message related to the patient's condition (*Walker column 3, lines 58-67, column 4, lines 1-6, column 6, lines 3-9, column 7, lines 45-63, column 20, lines 36-61*), and

wherein the system further sends information from the server to the patient-based physiological data acquisition and transmittal device to initiate interaction with the patient, the information comprising one or more questions for the patient to answer (Walker column 8, lines 18-39. Query the patient).

Walker further discloses in column 20, lines 42-45, that a signal is sent to the patient to appraise him/her of the situation when an alert is detected by the server and Walker also discloses in column 8, lines 34-39 that the server queries the patient in response to an alert. Walker does not state how the alert information signal or the query is presented to the patient. Walker does not disclose that the Patient Telemetry device has a display for displaying to the patient the data, a message related to the

patient's condition or questions. However Schulze, a reference in an analogous art, discloses a monitoring system with a patient telemetry device that has a display for displaying alerts/alarm information and questions sent via a server for the user to answer (*Schulze figs. 4-6, paragraphs 00145-0146 and 0153*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker's patient telemetry device with Schulze's display to display received alert information and alert related questions, because the display presents the information in an easy and useable way for the patient (*Schulze paragraph 0146*).

Claim 2. A telemedicine system according to claim 1 wherein the wireless transmitter is adapted to receive automatically the output data from the physiological data acquisition unit on data acquisition thereby, and thereupon automatically to transmit the output data immediately in real time to the remote server *(Walker column 3, lines 58-62, column 7, lines 45-63)*.

Claim 3. A telemedicine system according to claim 1 wherein the wireless transmitter is adapted to establish a connection to the wireless network automatically when it is switched on and to maintain the connection while switched on *(Walker column 3, lines 58-62, column 7, lines 45-63)*.

Claim 4. A telemedicine system according to claim 1 wherein the wireless network is a packet-switched network *(Walker column 6, lines 12-15. Internet)*.

Claim 5. A telemedicine system according to claim 4 wherein the wireless network is a public network *(Walker column 6, lines 12-15. Internet)*.

Claim 8. A telemedicine system according to claim 1 wherein the wireless transmitter is one of a cellular telephone and a PDA *(Walker column 5, lines 1-7)*.

Claim 9. A telemedicine system according to claim 8 wherein a software application is provided on the one of a cellular telephone and a PDA to interface with the physiological data acquisition unit and to control data transmission to the remote server *(Walker column 5, lines 1-7)*.

Claim 10. A telemedicine system according to claim 1 wherein the patient-based data acquisition and transmittal device is adapted to check the acquired data for compliance with preset conditions (*Walker column 5, lines 57-66*).

Claim 11. A telemedicine system according to claim 10 wherein the preset conditions relate to the quality or completeness of the data or the condition of the patient (*Walker column 5, lines 57-66*).

Claim 13. A telemedicine system according to claim 1 wherein the patient-based data acquisition and transmittal device stores the data if a network connection is

unavailable and automatically retransmits it later when a network connection is available (*Walker column 4, line 51, column 5, lines 45-57*).

Claim 14. A telemedicine system according to claim 1 wherein the remote server processes the data to check the condition of the patient and responds with said message related to the patient's condition via the wireless network (*Walker column 20, lines 36-55*).

Claim 15. A telemedicine system according to claim 1 wherein the remote server formats the data for delivery and display to a clinician (*Walker column 20, lines 36-61*).

Claim 16. A telemedicine system according to claim 1 wherein the remote server comprises a data analyser for identifying trends in the data and a message generator for generating messages including said message related to the patient's condition to be output to at least one of the patient and a clinician (*Walker column 3, lines 58-67, column 4, lines 1-6, column 6, lines 3-9, column 7, lines 45-63, column 20, lines 36-61*).

Claim 18. A telemedicine system according to claim 1 wherein the physiological data acquisition unit is one of: an electronic flow meter for recording Peak Expiratory Flowrate, an electronic blood glucose meter, a blood pressure monitor, and a heart rate monitor (*Walker column 4, lines 56-65*).

Claim 19. A telemedicine system according to claim 1 wherein the physiological data acquisition unit and wireless transmitter are integrated as a single device (*Walker fig. 1 Patient Telemetry Device 120-1*).

Claim 20. A telemedicine system according to claim 1 wherein the data sent from the wireless transmitter is time stamped with reference to a secure clock *(Walker column 4, lines 52-53. Clock circuit).*

Claim 21. A telemedicine system according to claim 20 wherein the secure clock is provided in the patient-based physiological data acquisition and transmittal device *(Walker column 4, lines 52-53. Clock circuit).*

Claim 22. A telemedicine system according to claim 1 wherein a secure data store is provided in the patient-based physiological data acquisition and transmittal device *(Walker column 4, line 51. Memory).*

Claim 23. A telemedicine system according to claim 1 wherein the data sent from the wireless transmitter is digitally signed (*Walker column 3, lines 57-58, column 4, lines 14-22*)

Claim 24. A telemedicine system according to claim 1 wherein the data sent from the wireless transmitter comprises the location of the wireless transmitter (*Walker column 6, lines 34-45)*.

Claim 25. A telemedicine system according to claim 24 wherein information is sent from the server to the patient-based physiological data acquisition and transmittal device for display thereon and is adapted depending on the location of the wireless transmitter (*Walker column 6, lines 35-45, column 20, lines 36-55*).

Claim 26. A telemedicine system according to claim 1 wherein the information is sent from the server to the patient-based physiological data acquisition and transmittal device for display thereon to initiate interaction with the patient is adapted depending on the value of the physiological parameter measured by the electronic physiological data acquisition unit (*Walker column 8, lines 23-39. Querying the patient)*.

Claim 27. A telemedicine system according to claim 1 wherein further information is sent from the server to the patient-based physiological data acquisition and transmittal device, and wherein in dependence upon the physiological parameter measurement and transmission to the server the further information comprises a prescription for medication (*Walker column 6, lines 16-34)*.

Claim 28. A telemedicine system according to claim 1 wherein the electronic physiological data acquisition unit is connectable to the wireless transmitter by a connection comprising a data head including an interface (*Walker fig. 1 Patient Telemetry Device 120-1)*.

Claim 29. A telemedicine system according to claim 28 wherein the data head comprises a secure clock for time stamping the data (*Walker fig. 1 Patient Telemetry Device 120-1, column 4, lines 52-53)*.

Claim 30. A telemedicine system according to claim 28 wherein the data head comprises a secure memory for storing the data (*Walker fig. 1 Patient Telemetry Device 120-1 and Memory 126)*.

In regards to claim 36, Walker discloses a telemedicine method comprising:

measuring a physiological parameter of a patient using a patient-based device to acquire and output data representing the parameter (*Walker fig 1, column 4, lines 49-68*);

automatically wirelessly transmitting the output data via a wireless network to a remote server *(Walker column 3, lines 58-62, column 5, lines 1-7, column 7, lines 45-63. Data link)*;

receiving from the remote server a message related to the patient's condition obtained by an automatic, patient-tuned analysis of the data with reference to known

trends for the patient (*Walker column 3, lines 58-67, column 4, lines 1-6, column 6, lines 3-9, column 7, lines 45-63, column 20, lines 36-61*);

initiating interaction with the patient according to information received from the server based on the analysis, the interacting comprising presenting one or more questions (*Walker column 8, lines 18-39. Query the patient*).

Walker further discloses in column 20, lines 42-45, that a signal is sent to the patient to appraise him/her of the situation when an alert is detected by the server and Walker also discloses in column 8, lines 34-39 that the server queries the patient in response to an alert. Walker does not state how the alert information signal or the query is presented to the patient. Walker does not disclose displaying the patient related information or the questions on a display. However Schulze, a reference in an analogous art, discloses a monitoring system with a patient telemetry device that uses a display to present alerts/alarm information and questions sent via a server for the user to answer (*Schulze figs. 4-6, paragraphs 00145-0146 and 0153*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker in view of Schulze's display to present received alert information and alert related questions, because the display presents the information in an easy and useable way for the patient (*Schulze paragraph 0146*).

In regards to claim 37, Walker discloses a patient-based physiological data acquisition and transmittal device connectable via a wireless network to transmit

physiological data to a remote server, the patient-based data acquisition and transmittal device comprising:

an electronic physiological data acquisition unit for measuring a physiological parameter of a patient to acquire and output data representing the parameter (*Walker fig 1, column 4, lines 49-68*);

communication circuitry which, upon receiving the output data from the data acquisition unit, automatically transmits the output data via the wireless network to the remote server *(Walker column 3, lines 58-62, column 5, lines 1-7, column 7, lines 45-63. Data link)* and which receives from the remote server a message related to the patient's condition obtained by an automatic, patient-tuned analysis of the output data with reference to known trends for the patient (*Walker column 3, lines 58-67, column 4, lines 1-6, column 6, lines 3-9, column 7, lines 45-63, column 20, lines 36-61*); and

wherein the device initiates interaction with the patient according to information received from the remote server based on the analysis, the interaction comprising a presentation of one or more questions (Walker column 8, lines 18-39. Query the patient).

Walker further discloses in column 20, lines 42-45, that a signal is sent to the patient to appraise him/her of the situation when an alert is detected by the server and Walker also discloses in column 8, lines 34-39 that the server queries the patient in response to an alert. Walker does not state how the alert information signal or the query is presented to the patient. Walker does not disclose that the Patient Telemetry device has a display for displaying to the patient the data, a message related to the

patient's condition or questions. However Schulze, a reference in an analogous art, discloses a monitoring system with a patient telemetry device that has a display for displaying alerts/alarm information and questions sent via a server for the user to answer (*Schulze figs. 4-6, paragraphs 00145-0146 and 0153*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker's patient telemetry device with Schulze's display to display received alert information and alert related questions, because the display presents the information in an easy and useable way for the patient (*Schulze paragraph 0146*).

**Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Schulze as applied to claim 1 above, and further in view of Haller et al. US Patent Publication No. 2002/0052539 (hereinafter Haller).**

In regards to claim 7, Schulze teaches in paragraph 0176 that the CDMA wireless protocol is used in the device but other wireless networks will be just as suitable for use in the device. Schulze does not disclose that the wireless network is the 3G, PDC-P or EDGE network. However Haller, a reference in an analogous art, discloses, in paragraphs 0115-0141, the use of a 3G network in an emergency medical information communication system. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the wireless network of Schulze with Haller's 3G network because Haller teaches, in paragraphs 0115-0141, the interchangeability of different wireless networks, including CDMA and 3G.

**Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Schulze (hereinafter Walker modified) as applied to claim 16 above, and further in view of Baker, Jr. et al. US Patent No. 5,853,364 (hereinafter Baker).**

In regards to claim 17, Walker modified discloses a data analyzer in the server (*Walker column 3, lines 58-67, column 4, lines 1-6, column 6, lines 3-9, column 7, lines 45-63, column 20, lines 36-61*). Walker modified does not disclose that the data analyzer comprises a Kalman smoother for smoothing the data. However Baker, a reference in an analogous art, discloses, in column 4, lines 4-25, the use of a Kalman filter to reduce noise energy in a system for measuring physiological parameters. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Walker modified with the Kalman filter of Baker because Baker teaches in column 4, lines 4-25 and column 9, lines 58-60, that the Kalman filter optimally filters noise from physiological measurements and further teaches, in column 11, lines 22-36, that the Kalman filter improves accuracy of the results.

***Response to Arguments***

Applicant's arguments with respect to claims 1-11, 13-30 and 36-37 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharick Naqi whose telephone number is (571)272-3041. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. N./
Examiner, Art Unit 3736

/Michael Astorino/
Primary Examiner, Art Unit 3736

May 1, 2008